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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/785,760	02/16/2001	Raj Abhyanker	10005750-1	2971

7590

04/03/2006

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EXAMINER

KYLE, CHARLES R

ART UNIT

PAPER NUMBER

3624

DATE MAILED: 04/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/785,760	Applicant(s) ABHYANKER, RAJ	
	Examiner Charles Kyle	Art Unit 3624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. They recite the phrasing “sending, by the portal, the buyer a shipping form to gather a set of shipping data about shipping the good after the buyer and seller agree for the sale of the good”, which is unclear and clumsy. It appears that the meaning intended is that after the buyer and seller agree for the sale of the good, the portal sends to the buyer a shipping form which is completed by the buyer to gather a set of shipping data about shipping the good. The Claims are examined based on this interpretation.

Claim 15 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It recites the phrase “sending, automatically by the portal if a seller agrees to ship the goods in the unused capacity, the winning buyer a shipping form to gather information about the goods being shipped in the unused capacity”, which is unclear and clumsy. It appears that the meaning intended is that a shipping form is automatically sent from the portal to a buyer to gather goods information in the event that a seller agrees to use its unused capacity to ship the buyer’s newly purchased goods. The Claims are examined based on this interpretation.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 20010009005 *Godin et al* in view of US 2002/0111892 *Sharp et al*.

As to Claim 4, *Godin* discloses the invention substantially as claimed including in a method for aligning transactional flows within an Internet exchange portal, steps of:

facilitating an auction on the portal for sale of a good between a buyer and a seller (paras. 2-25);

sending, by the portal, the buyer a shipping form to gather a set of shipping data about shipping the good after the buyer and seller agree for the sale of the good (para. 34, particularly lines 22-25; Figs. 11 and 12);

collecting the set of shipping data for a contract entered into between the buyer and seller resulting from the sale of the good (para. 34, particularly lines 31-33).

The Examiner notes that Applicants' claimed invention comprises two auctions. First, an auction for goods is performed, as per *Godin*. Next, an auction is performed to obtain shipping services for the good obtained at the first auction, as disclosed by *Sharp*. *Godin* does not specifically disclose the auction elements of the second auction for shipping services which include soliciting bids for shipping services required by a contract, receiving a set of shipping

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bids or selecting a bid from the set of bids according to a predetermined set of bid evaluation criteria. *Sharp* discloses these as soliciting bids for shipping services for goods required by a contract (paras. 4, 113, 121), receiving a set of shipping bids (para. 111), and selecting a bid from the set of bids according to a predetermined set of bid evaluation criteria (paras. 112-119). It would have been obvious to one of ordinary skill in that art at the time of the invention to modify *Godin* with the shipping service auction of *Sharp* because this would provide a mechanism to effectively match the needs of a seller/shipper and capacities of shipping companies. See *Sharp* at para. 3.

With respect to Claim 5, *Sharp* discloses business-to-business auctions at para. 005.

Concerning Claim 7, *Sharp* discloses the recited limitations at paras. 111-114.

With respect to Claim 8, Official Notice is taken that the grouping of contracts for transportation (loads) is old and well known the freight transport. For example, a shipper having a standard fifty-three foot trailer would transport loads to a common destination from multiple parties, rather than shipping a single small load which would use only part of the trailer capacity. It would have been obvious to one of ordinary skill in that art at the time of the invention to modify *Sharp* to group such loads and auction grouped contracts to more efficiently and profitably match customers and shippers. See the *Hunt* reference for support at Col. 6, line 40 to Col. 10, line 3.

Regarding Claim 9, *Sharp* discloses a plurality of shippers at Summary of the Invention, particularly paras. 17-18. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify *Godin* to consider the plurality of shippers of *Sharp* because this

would provide competition in the selection of shipping suppliers and produce a lower shipping cost for the auctioned good.

Concerning Claim 10, *Godin* discloses a predetermined set of shipping data at Fig.11 and related text.

With respect to Claim 11, *Sharp* discloses seller bid evaluation criteria at para. 110-112.

With respect to Claim 12, *Godin* discloses selection by a seller from among forwarded bids at para. 2.

With respect to Claim 13, *Sharp* discloses selecting the bid with the lowest shipping price at para. 111.

Concerning Claim 14, Official Notice is taken that a default selection absent an exact match was old and well known at the time of the invention. For example, selection of a “closest match” selection was known. It would have been obvious to one of ordinary skill in that art at the time of the invention to modify *Sharp* to select a default shipper in the absence of a match to a predetermined criteria because this would assure that although sub-optimal, the selection would at least assure that shipping was accomplished. See the *Burton* reference at paras. 222-223 for support of this taking of Official Notice with respect to default suppliers of services.

Concerning Claim 15, see the discussion of Claim 4; it is inherent that capacity available for providing shipping services would be unused. One could hardly offer already used capacity.

Concerning Claims 16-17 and 19-26, see the discussion of Claims 4-5 and 7-14, of which they are computer-usable medium variants and are rejected in a like manner.

Claims 6 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 20010009005 *Godin et al* in view of US 2002/0111892 *Sharp et al* and further in view of US 6,202,051 *Woolston*.

With respect to Claim 6, *Godin* discloses the invention substantially as claimed, including a contract consummation event at para. 23. See the discussion of Claim 4. *Godin* does not specifically disclose an auction service fee. *Woolston* discloses an auction service fee at Col. 21, lines 55-57. It would have been obvious to one of ordinary skill in that art at the time of the invention to modify *Godin* to include the auction service fee of *Woolston* so as to compensate the entity providing auction services.

As to Claim 18, see the discussion of Claim 16 and Claim 6.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles Kyle whose telephone number is (571) 272-6746. The examiner can normally be reached on 6:30 to 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (571) 272-6747. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

crk
March 29, 2006

Primary Examiner
Charles Kyle
Art Unit 3624

A handwritten signature in black ink, appearing to read "Charles Kyle", with a stylized flourish at the end.